

Senate Engrossed

State of Arizona
Senate
Forty-sixth Legislature
First Regular Session
2003

CHAPTER 64

SENATE BILL 1330

AN ACT

AMENDING SECTIONS 15-536, 15-538 AND 15-539, ARIZONA REVISED STATUTES;
RELATING TO EMPLOYMENT OF TEACHERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 15-536, Arizona Revised Statutes, is amended to
3 read:

4 15-536. Offer of contract to certificated teacher who has not
5 been employed more than three consecutive school
6 years; acceptance; notice to teacher of intention not
7 to reemploy

8 A. Subject to the provisions of sections 15-539, 15-540, 15-541,
9 15-544 and 15-549, the governing board shall, between March 15 and May 15,
10 offer a teaching contract for the next ensuing school year to each
11 certificated teacher who has not been employed by the school district for
12 more than the major portion of three consecutive school years and who is
13 under a contract of employment with the school district for the current
14 school year, unless, on or before April 15, the governing board, a member of
15 the board acting on behalf of the board or the superintendent of the school
16 district gives notice to the teacher of the board's intention not to offer
17 a teaching contract, unless such teacher has been dismissed pursuant to
18 section 15-538, 15-539, 15-541 or 15-544. The teacher's acceptance of the
19 contract for the ensuing year must be indicated within thirty days from the
20 date of the written contract or the offer is revoked. The teacher accepts
21 the contract by signing the contract and returning it to the governing board
22 or by making a written instrument which accepts the terms of the contract and
23 delivering it to the governing board. If the written instrument includes
24 terms in addition to the terms of the contract offered by the board, the
25 teacher fails to accept the contract.

26 B. Notice of the board's intention not to reemploy the teacher shall
27 be by delivering it personally to the teacher or by sending it by registered
28 or certified mail bearing a postmark of on or before April 15, directed to
29 the teacher at his place of residence as recorded in the school district
30 records. The notice shall incorporate a statement of reasons for not
31 reemploying the teacher. If the reasons are charges of inadequacy of
32 classroom performance AS DEFINED BY THE GOVERNING BOARD PURSUANT TO SECTION
33 15-539, SUBSECTION D, the board, or its authorized representative, shall, at
34 least ninety days prior to such notice, give the teacher written preliminary
35 notice of his inadequacy, specifying the nature of the inadequacy with such
36 particularity as to furnish the teacher an opportunity to correct his
37 inadequacies and overcome the grounds for such charge. The governing board
38 may delegate to employees of the governing board the general authority to
39 issue preliminary notices of inadequacy of classroom performance to teachers
40 pursuant to this section SUBSECTION without the need for prior approval of
41 each notice by the governing board. In all cases in which an employee of the
42 governing board issues a preliminary notice of inadequacy of classroom
43 performance without prior approval by the governing board, the employee shall
44 report its issuance to the governing board within five school days. The

1 written notice of intention not to reemploy shall include a copy of any
2 evaluation pertinent to the charges made and filed with the board.

3 C. Nothing in this section shall be construed so as to provide a
4 certificated teacher who has not been employed by the school district for
5 more than the major portion of three consecutive school years and who has
6 received notice of the board's intention not to offer a teaching contract
7 with the right to a hearing pursuant to the provisions of section 15-539,
8 subsection G.

9 Sec. 2. Section 15-538, Arizona Revised Statutes, is amended to read:

10 15-538. Preliminary notice of inadequacy of classroom
11 performance

12 A. The governing board of any school district shall give any
13 certificated teacher who has not been employed by the school district for
14 more than the major portion of three consecutive school years notice of
15 intention to dismiss or not to reemploy if such intention is based on charges
16 of inadequacy of classroom performance AS DEFINED BY THE GOVERNING BOARD
17 PURSUANT TO SECTION 15-539, SUBSECTION D. The governing board, or its
18 authorized representative, shall, at least ninety days prior to such notice,
19 give the teacher written preliminary notice of his inadequacy, specifying the
20 nature thereof with such particularity as to furnish the teacher an
21 opportunity to correct his inadequacies and overcome the grounds for such
22 charge. The governing board may delegate to employees of the governing board
23 the general authority to issue preliminary notices of inadequacy of classroom
24 performance to teachers pursuant to this section without the need for prior
25 approval of each notice by the governing board. In all cases in which an
26 employee of the governing board issues a preliminary notice of inadequacy of
27 classroom performance without prior approval by the governing board, the
28 employee shall report its issuance to the governing board within five school
29 days. The written notice of intention to dismiss or not to reemploy shall
30 include a copy of any evaluation pertinent to the charges made and filed with
31 the governing board.

32 B. If the preliminary notice required in subsection A OF THIS SECTION
33 is issued as a result of an intention to dismiss, such preliminary notice
34 shall be given at least ninety days prior to service of notice of the
35 intention to dismiss. If the preliminary notice is issued as a result of an
36 intention not to reemploy, such preliminary notice shall be given no later
37 than January 15.

38 Sec. 3. Section 15-539, Arizona Revised Statutes, is amended to read:

39 15-539. Dismissal of certificated teacher; due process; written
40 charges; notice; hearing on request

41 A. Upon a written statement of charges presented by the
42 superintendent, charging that there exists cause for the suspension without
43 pay for a period of time greater than ten school days or dismissal of a
44 certificated teacher of the district, the governing board shall, except as
45 otherwise provided in this article, give notice to the teacher of its

1 intention to suspend without pay or dismiss the teacher at the expiration of
2 thirty days from the date of the service of the notice.

3 B. Whenever the superintendent presents a statement of charges wherein
4 the alleged cause for dismissal constitutes immoral or unprofessional
5 conduct, the governing board may adopt a resolution that a complaint be filed
6 with the department of education. Pending disciplinary action by the state
7 board of education, the certificated teacher may be reassigned by the
8 superintendent or placed on administrative leave by the board pursuant to
9 section 15-540.

10 C. The governing board shall give a certificated teacher who has been
11 employed by the school district for more than the major portion of three
12 consecutive school years notice of intention to dismiss if its intention to
13 dismiss is based on charges of inadequacy of classroom performance as defined
14 by the governing board PURSUANT TO SUBSECTION D OF THIS SECTION. The
15 governing board or its authorized representative shall give the teacher a
16 written preliminary notice of inadequacy of classroom performance at least
17 ten instructional days prior to the start of the period of time within which
18 to correct the inadequacy and overcome the grounds for the charge. The
19 governing board may delegate to employees of the governing board the general
20 authority to issue preliminary notices of inadequacy of classroom performance
21 to teachers pursuant to this section without the need for prior approval of
22 each notice by the governing board. In all cases in which an employee of the
23 governing board issues a preliminary notice of inadequacy of classroom
24 performance without prior approval by the governing board, the employee shall
25 report its issuance to the governing board within five school days. The
26 written preliminary notice of inadequacy of classroom performance shall
27 specify the nature of the inadequacy of classroom performance with such
28 particularity as to furnish the teacher an opportunity to correct the
29 teacher's inadequacies and overcome the grounds for the charge. The written
30 preliminary notice of inadequacy of classroom performance shall be based on
31 a valid evaluation according to school district procedure, shall include a
32 copy of any evaluation pertinent to the charges made and shall state the date
33 by which the teacher has to correct the inadequacy and overcome the grounds
34 for the charge. That evaluation shall not be conducted within two
35 instructional days of any school break of one week or more. The written
36 preliminary notice of inadequacy of classroom performance shall allow the
37 teacher not less than eighty-five instructional days within which to correct
38 the inadequacy and overcome the grounds for the charge. If within the time
39 specified in the written preliminary notice of inadequacy of classroom
40 performance the teacher does not demonstrate adequate classroom performance,
41 the governing board shall dismiss the teacher either within thirty days of
42 the service of a subsequent notice of intention to dismiss or by the end of
43 the contract year in which the subsequent notice of intention to dismiss is
44 served unless the teacher has requested a hearing as provided in subsection
45 G of this section. If the teacher demonstrates adequate classroom

1 performance during the period allowed to correct such deficiencies as
2 specified in the written preliminary notice of inadequacy of classroom
3 performance, the governing board may not dismiss the teacher for the reasons
4 specified in the written preliminary notice of inadequacy of classroom
5 performance. If the governing board of a school district has received
6 approval to budget for a career ladder program, the governing board may
7 define inadequacy of classroom performance by establishing a single level of
8 performance which is required of all teachers or by establishing more than
9 one required level of performance. If more than one level is established,
10 the same level of performance for minimum adequacy shall be required of all
11 teachers who have completed the same number of years of teaching in the
12 district.

13 D. THE GOVERNING BOARD SHALL DEVELOP A DEFINITION OF INADEQUACY OF
14 CLASSROOM PERFORMANCE THAT APPLIES TO NOTICES ISSUED PURSUANT TO SECTION
15 15-536, SECTION 15-538 AND THIS SECTION. The governing board shall develop
16 its definition of inadequacy of classroom performance in consultation with
17 its certificated teachers. The consultation may be accomplished by holding
18 a public hearing, forming an advisory committee, providing teachers the
19 opportunity to respond to a proposed definition or obtaining teacher approval
20 of a career ladder program which defines inadequacy of classroom performance.

21 E. Any written statement of charges alleging unprofessional conduct,
22 conduct in violation of the rules or policies of the governing board or
23 inadequacy of classroom performance shall specify instances of behavior and
24 the acts or omissions constituting the charge so that the certificated
25 teacher will be able to prepare a defense. IF APPLICABLE, it shall, if
26 applicable, state the statutes, rules or written objectives of the governing
27 board which the certificated teacher is alleged to have violated and set
28 forth the facts relevant to each occasion of alleged unprofessional conduct,
29 conduct in violation of the rules or policies of the governing board or
30 inadequacy of classroom performance.

31 F. The notice shall be in writing and shall be served upon the
32 certificated teacher personally or by United States registered or certified
33 mail addressed to the teacher's last known address. A copy of the charges,
34 together with a copy of this section and sections 15-501, 15-538.01, 15-540,
35 through 15-541, 15-542 and 15-544 through 15-547 shall be attached to the
36 notice.

37 G. The certificated teacher who receives notice that there exists
38 cause for dismissal or suspension without pay shall have the right to a
39 hearing if the teacher files a written request with the governing board
40 within thirty days of service of notice. The filing of a timely request
41 shall suspend the imposition of a suspension without pay or a dismissal
42 pending completion of the hearing.

APPROVED BY THE GOVERNOR APRIL 14, 2003.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 14, 2003.

Passed the House April 8, 20 03,

by the following vote: 43 Ayes,

11 Nays, 6 Not Voting

Jake Flake
Speaker of the House
Cheryl Laube
Asst. Chief Clerk of the House

Passed the Senate March 10, 20 03,

by the following vote: 30 Ayes,

0 Nays, 0 Not Voting

Ken Blumenthal
President of the Senate
Charmian Bellington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

8 day of April, 20 03

at 2:50 o'clock P M.

Landra James
Secretary to the Governor

Approved this 14 day of

April, 20 03,

at 8:55 o'clock A M.

J. T. Apple
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 14 day of April, 20 03,

at 10:55 o'clock P M.

Jamie L. Brewer
Secretary of State

S.B. 1330